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Elimination of racism and racial discrimination: elimination of racism and racial discrimination

The fight against racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the interim report prepared by Mr. Doudou Diène, Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, in accordance with General Assembly resolution 59/177.

Summary

In this report, the Special Rapporteur reviews the activities in which he participated in the context of the follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. He took part in the deliberations of the sixty-first session of the Commission on Human Rights in March 2005, where he introduced his general report on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (E/CN.4/2005/18), his report on the defamation of religions and global efforts to combat racism: anti-Semitism, Christianophobia and Islamophobia (E/CN.4/2005/18/Add.4), his third report on the situation of Muslim and Arab peoples in various parts of the world in the aftermath of the events of 11 September 2001 (E/CN.4/2005/19), as well as his reports on his missions to Guatemala (E/CN.4/2005/18/Add.2), Côte d'Ivoire (E/CN.4/2005/18/Add.3), Honduras (E/CN.4/2005/18/Add.5) and Nicaragua (E/CN.4/2005/18/Add.6). The Special Rapporteur also comments on the main issues

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mentioned in the resolutions adopted by the Commission on Human Rights, including the need to give equal treatment to all forms of racism and discrimination and the upsurge in acts of racism committed by neo-Nazi and extreme right groups. The Special Rapporteur also participated in a series of meetings and seminars, including two thematic debates of the Committee for the Elimination of Racial Discrimination (CERD) on the prevention of genocide and multiculturalism; he also participated in the conference of the Organization for Security and Cooperation in Europe (OSCE) on Combating anti-Semitism and other forms of intolerance held in Cordoba, Spain.

This report also covers the Special Rapporteur's mission to Japan, at the conclusion of which he noted the existence of forms of discrimination against national minorities and foreign communities and the lack of a comprehensive legislation against racism and discrimination. The Special Rapporteur stresses the need for a vigorous political response from the Government and the enactment of legislation and an intellectual and ethical strategy to address the underlying cultural and historical causes of discrimination in Japan.

With regard to contemporary manifestations of racism, racial discrimination, xenophobia and related intolerance, the Special Rapporteur draws attention to two developments of particular concern: the rise in racism and xenophobia as a result of identity constructs and the mistreatment, contrary to international standards, of aliens, asylum-seekers, refugees and immigrants by the official administrative services of many States, especially in reception and waiting areas at airports, ports and stations which are becoming so-called "no rights zones". The Special Rapporteur then discusses the upsurge of racism in sports, draws conclusions and makes recommendations thereon. Lastly, the Special Rapporteur reports on his cooperation with regional organizations in efforts to combat racial discrimination and xenophobia and makes his recommendations.

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I. Introduction

1. In its resolution 59/177 of 2 March 2005 on global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action, the General Assembly condemned all forms of racism and racial discrimination, including related acts of racially motivated violence, xenophobia and intolerance, as well as propaganda activities and organizations that attempt to justify or promote racism, racial discrimination, xenophobia and related intolerance in any form. It also recognized with deep concern the increase in anti-Semitism, Christianophobia and Islamophobia in various parts of the world, as well as the emergence of racial and violent movements based on racism and discriminatory ideas directed against Arab, Christian, Jewish and Muslim communities, communities of people of African descent, communities of people of Asian descent and other communities.

2. The General Assembly emphasized that it was the responsibility of States to adopt effective measures to combat criminal acts motivated by racism, racial discrimination, xenophobia and related intolerance, including measures to ensure that such motivations are considered an aggravating factor for the purposes of sentencing, to prevent those crimes from going unpunished and to ensure the rule of law. It was conscious that any form of impunity for crimes motivated by racist and xenophobic attitudes played a role in weakening the rule of law and democracy, tended to encourage the recurrence of such crimes and required resolute action and cooperation for its eradication. It condemned the misuse of print, audio-visual and electronic media and new communication technologies, including the Internet, to incite violence motivated by racial hatred, and called upon States to take all necessary measures to combat this form of racism in accordance with the commitments that they had undertaken under the Durban Declaration and Programme of Action (A/CONF.189/12 and Corr.1), in particular paragraph 147 of the Programme of Action, in accordance with existing international and regional standards of freedom of expression and taking all necessary measures to guarantee the right to freedom of opinion and expression.

3. The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance was requested to continue his exchange of views with Member States and relevant mechanisms and treaty bodies within the United Nations system in order to enhance further their effectiveness and mutual cooperation. In the same resolution, the General Assembly called upon States to cooperate with the Special Rapporteur and to give serious consideration to his requests to visit their countries so as to enable him to fulfil his mandate fully and effectively. The Assembly also urged Member States to consider implementing the recommendations contained in the reports of the Special Rapporteur and invited other relevant stakeholders to implement those recommendations. The Assembly also encouraged closer collaboration between the Special Rapporteur and the Office of the United Nations High Commissioner for Human Rights, in particular the Anti-Discrimination Unit. In addition, the Assembly requested the Secretary-General to provide the Special Rapporteur with all the necessary human and financial assistance to carry out his mandate efficiently, effectively and expeditiously and to enable him to submit an interim report to the General Assembly at its sixtieth session.

4. This report has been prepared pursuant to that resolution, the principal provisions of which have been cited above.

II. Activities of the Special Rapporteur

A. Participation in the work of the Commission on Human Rights at its sixty-first session

1. Introduction of reports

5. From 21 to 25 March 2005, the Special Rapporteur participated in the work of the Commission on Human Rights at its sixtieth session. He introduced his general report on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (E/CN.4/2005/18), his report on the defamation of religions and global efforts to combat racism: anti-Semitism, Christianophobia and Islamophobia (E/CN.4/2005/18/Add.4), his third report on the situation of Muslim and Arab peoples in various parts of the world in the aftermath of the events of 11 September 2001 (E/CN.4/2005/19). He also introduced his reports on his missions to Guatemala (E/CN.4/2005/18/Add.2), Côte d'Ivoire (E/CN.4/2005/18/Add.3), Honduras (E/CN.4/2005/18/Add.5) and Nicaragua (E/CN.4/2005/18/Add.6). The preliminary comments of the Special Rapporteur following those missions have already been included in his report to the General Assembly at its fifty-ninth session (A/59/329).

6. In his general report to the Commission on Human Rights, the Special Rapporteur demonstrated that the existence of racism, racial discrimination, xenophobia and related intolerance was indicative of the following alarming trends: the growing importance of the identity factor in recent manifestations of racism, racial discrimination and xenophobia; the tendency to establish a hierarchy in racial discrimination; the increasingly overt intellectual legitimization of racism, racial discrimination and xenophobia; the rise in and increasing influence of parties and movements with racist and xenophobic platforms; and increased racism in sports. In conclusion, the Special Rapporteur has highlighted various courses of action:

(a) The importance of conducting an in-depth debate on the link between racism, discrimination and identity. In that regard, the Special Rapporteur wishes to draw the attention of European Union member States to the urgency of giving special attention, in the building of the identity of the new Europe, to its ethnic, cultural and religious pluralism;

(b) The growing importance of achieving intellectual and cultural unanimity in combating racism and xenophobia and the need to draw up an intellectual strategy for the fight against racism to be applied in the area of ideas, concepts, images, representations, perceptions and value systems;

(c) The need to give equal treatment to all forms of racism and discrimination while recognizing the singularity and specificity of each form of discrimination and racism;

(d) The importance of more effectively combating organizations that promote ideas based on racial superiority or hatred, commit or incite acts of violence and of prosecuting them;

(e) The need to prevent acceptance of racism and discrimination as a result of the inclusion of racist and xenophobic political platforms in the programmes of democratic parties under the guise of combating terrorism and illegal immigration or "national preference" in a context of economic stagnation;

(f) The need to address the rise of racism in sports by conducting preventive educational and awareness-raising activities and condemning the perpetrators of racist incidents, in cooperation with national and international sports organizations. The Special Rapporteur also recommended the establishment of formal and closer collaboration between the United Nations and international sports bodies. He also urged international sports bodies to take tough and credible measures against the perpetrators of racist incidents, especially sports executives, and to focus on the national dimension of the fight against racism by requesting national federations to submit annual reports on racist incidents and the action taken in response to them;

(g) The need for a firmer commitment of civil society to the fight against racism in sports through programmes designed to improve knowledge and appreciation of others and their culture.

7. In preparing his report on the defamation of religions and global efforts to combat racism, the Special Rapporteur relied heavily on the inputs and conclusions of the seminar of high-level experts held in Barcelona, Spain, from 11 to 14 November 2004 under the auspices of the United Nations Educational Scientific and Cultural Organization (UNESCO) Centre for Catalonia and analysed each of the phobias and identified the underlying causes of their growth. He also analysed the dialectic between the specificities and singularities of these three phobias and the universality of efforts to combat racism, racial discrimination and xenophobia. The Special Rapporteur then submitted to the Commission and to member States specific recommendations for each of these phobias and general recommendations covering the following points:

(a) The need to take greater account than in the past of two developments in measures to combat racism and discrimination: the increasing intertwining of race, ethnicity, culture and religion and, in this context, the rise of anti-Semitism, Christianophobia and Islamophobia. The Special Rapporteur therefore invited the Commission to urgently draw the attention of member States to the dynamic of the clash of cultures, civilizations and religions generated by these developments, in particular in the current context of overemphasis on the fight against terrorism;

(b) The need to take into account the following principles in the strategies to combat anti-Semitism, Christianophobia and Islamophobia:

(i) The historical and cultural depth of these three phobias, and thus the need to complement legal strategies with an intellectual and ethical strategy relating to the processes, mechanisms and representations which constitute these phobias over time;

(ii) The close and fundamental link between the spiritual, historical and cultural singularity of each of these phobias and the universality of their underlying causes and of the efforts needed to combat them;

(iii) Equal treatment of these phobias and avoidance of any prioritization of efforts to combat all forms of discrimination;

(iv) Application of the principle of secularism must be subject to particular vigilance so as not to generate or legitimize new forms of discrimination and, above all, not to constitute an obstacle to full participation in public life by believers and practitioners of various religions;

(v) Respect for and promotion of religious and spiritual pluralism.

8. The Special Rapporteur recommended that the Commission invite the religious and cultural communities that are victims of these phobias to not only promote in-depth intercultural and interreligious dialogue, including through the establishment of joint structures in each country in which they coexisted, but also to explore the internal factors in their beliefs and practices which might have contributed to these phobias.

9. The Special Rapporteur also recommended that the Commission invite civil society to further mobilize against all these phobias, without prioritization, and above all to actively promote dialogue and interaction between the communities concerned.

2. Observations on the resolutions adopted

(a) Avoidance of prioritization in efforts to combat religious defamation

10. In its resolution 2005/3 of 12 April 2005 entitled "Combating defamation of religions", the Commission, alarmed at the negative projection of Islam in the media and at the introduction and enforcement of laws that specifically discriminate against and target Muslims, noted with deep concern the intensification of the campaign of defamation of religions in the aftermath of the tragic events of 11 September 2001. It expressed deep concern that Islam was frequently and wrongly associated with human rights violations and terrorism. The Commission therefore requested the Special Rapporteur to continue to examine the situation of Muslims and Arab peoples in various parts of the world, the discrimination faced by them with regard to access to justice, political participation, respect of cultures, physical assaults and attacks against their places of worship, cultural centres, businesses and properties in the aftermath of the events of 11 September 2001 and to report on his findings to the Commission at its sixty-second session, and to make recommendations to improve their situation.

11. The Special Rapporteur believes that, in the ideological context created by the tragic events of 11 September 2001, Islamophobia is a particularly alarming manifestation of discrimination. He wishes to draw the General Assembly's attention to the dynamic of the clash of cultures, civilizations and religions arising from four aspects of Islamophobia: (a) the perception, in reaction to acts of violence perpetrated by individuals claiming to be Muslims, of all Muslims and of the Islamic community as a whole as a political problem; (b) official policies of monitoring the teaching and practice of Islam; (c) the general increase in acts of violence against Islamic places of worship and culture and Muslim worshippers; and (d) the overt intellectual legitimization of Islamophobia by leading researchers and writers and by some media outlets. In the Special Rapporteur's view, any study of this increase in Islamophobia should be based on both the historical, theological and contextual singularity of this phobia and the universality of the underlying causes of the defamation of religions.

12. The Special Rapporteur considers it useful to undertake an in-depth analysis of Islamophobia in a special report to the General Assembly. He believes that the Commission should redouble its vigilance to address the serious forms of defamation of religions. In that regard, he recalls the Durban Declaration and General Assembly resolution 58/160 of 22 December 2003 in which States recognized with deep concern the increase in anti-Semitism, Christianophobia and Islamophobia in various parts of the world. He further recalls that the Secretary-General not only condemned such phobias during a recent series of seminars organized by the United Nations Department of Public Information but also urged the Special Rapporteur to give such issues in-depth treatment in his reports.

(b) The resurgence of racist acts committed by neo-Nazi and extreme right groups

13. In its resolution 59/175 of 2 March 2005 on measures to be taken against political platforms and activities based on doctrines of superiority and violent nationalist ideologies which are based on racial discrimination or ethnic exclusiveness and xenophobia, including neo-Nazism, the General Assembly expressed particular alarm at the persistence of such ideas in political circles, in the sphere of public opinion and in society at large. It expressed its determination to resist such political platforms and activities which can undermine the enjoyment of human rights and fundamental freedoms and of equality of opportunity.

14. In light of the study on the question of political platforms which promote or incite racial discrimination (A/59/330) undertaken by the Special Rapporteur in 2004, the Assembly expressed its conviction that political platforms and activities based on doctrines of superiority and violent nationalist ideologies must be condemned as incompatible with democracy and accountable governance. It took note of the Special Rapporteur's recommendation on the need to exercise greater control over racist and xenophobic statements, especially when they were expressed by representatives of political parties or other ideological movements.

15. In its resolution 2005/5 entitled "Inadmissibility of certain practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance", the Commission, alarmed at the spread in many parts of the world of various extremist political parties, movements and groups, including neo-Nazis and skinhead groups, expressed deep concern over the fact of the glorification of the Nazi movement, including through erecting monuments and memorials as well as holding public demonstrations in the name of glorification of the Nazi past, the Nazi movement and neo-Nazism. Noting with concern the increase in the number of racist incidents in several countries and the rise of skinhead groups, which had been responsible for many of those incidents, the Assembly had requested the Special Rapporteur to continue to reflect on that issue, make relevant recommendations in his report to the Commission at its sixty-second session, and to seek and to take into account in that regard the views of Governments as well as non-governmental organizations.

16. Furthermore, in its resolution 2005/36 entitled "The incompatibility between democracy and racism", the Commission also strongly condemned the persistence and resurgence of neo-Nazism, neo-fascism and violent nationalist ideologies based on racial or national prejudice, and stated that those phenomena could never be justified in any instance or in any circumstances. The Commission invited the Special Rapporteur to review and further expand the study on the question of

political platforms which promoted or incited racial discrimination (E/CN.4/2004/61), as updated for the General Assembly (A/59/330), and to submit it to the Commission at its sixty-second session.

17. The Special Rapporteur wishes to stress that the newest and most alarming aspect of the resurgence of parties and groups with racist and xenophobic platforms is their insidious inroads on the political agendas of democratic parties and their acceptance by the latter in order to win votes under the guise of combating terrorism, defending the "national identity", promoting "national preference" and combating illegal immigration. As a result, a growing number of intellectuals have routinely found racist or xenophobic speech, writing and, therefore, acts acceptable and legitimate. That is why the Special Rapporteur believes that racism and xenophobia currently represent the greatest threats to democracy. The electoral impact of such parties and groups with racist and xenophobic platforms is gradually being reflected, not only in their participation in government coalitions and the statements of leaders of traditional democratic political parties, but above all, in legislation and administrative and security practices that criminalize non-nationals, immigrants, refugees and asylum-seekers. Several recent developments in terms of images, representations and ways of thinking illustrate how the fight against the underlying causes of racism has lost steam, how racism has gained acceptance and how it is being exploited for political purposes: the historical revisionism of democratic parties in certain countries has tended to promote the teaching that colonization had its merits; the increasing perception of underdevelopment as a reflection of backward spiritual cultures and traditions; as well as the interpretation of conflicts in some regions of the world like Africa as having ethnic rather than political causes. Acceptance of racism has sparked a widespread resurgence in racist and xenophobic crimes.

B. Coordination with other human rights mechanisms and participation in various meetings

18. Continuing the process of regular consultations with the Committee for the Elimination of Racial Discrimination (CERD), which he started in 2003, the Special Rapporteur participated in a thematic discussion on the prevention of genocide on 28 February 2005 and in a general discussion on multiculturalism on 8 March 2005.

19. During the discussion on the prevention of genocide, the Special Rapporteur stressed the importance of achieving intellectual and cultural agreement on the need to prevent genocide. In that regard, he drew the attention of CERD members to the fact that the groundwork for the commission of genocidal violence is always laid by identity, intellectual and cultural constructs which over time legitimize genocidal acts through cultural stereotyping and demonization of victim groups and communities. The ideology of genocide is in essence a construct which includes racism, discrimination and xenophobia. The historical, cultural and intellectual roots of racism should therefore be considered an indicator of the groups and communities at risk. Genocide and its basic ingredient of racism do not just happen but are shaped by ways of thinking, value systems and representations of which they are a portent as clouds portend a storm. The Special Rapporteur also wishes to stress the importance of memory in the prevention of genocide: without a collective memory and a thorough analysis of past acts of genocide, it is difficult to define indicators which would alert us to a high-risk situation that needs to be addressed.

Forgetting, hiding or obliterating the history of genocide perpetrated against a people also contributes to weakening the universal struggle against genocide.

20. During the general discussion on multiculturalism, the Special Rapporteur stressed that large-scale discrimination stemmed from the rejection of multiculturalism and cultural diversity. Multiculturalism — which is never neutral and spontaneous, but is the result of complex historical interactions[1] — is marked by the existence of antagonism between groups and communities in terms of identity which is reflected, depending on the ideological and political context, in intercommunity dialogue or inequality, discrimination and social stratification. De facto multiculturalism as manifested in most societies should therefore be transformed into the values of pluralism and mutual coexistence. The Special Rapporteur stressed in that regard the need for acknowledging the basic racial, ethnic, religious or cultural components of multiculturalism. Indeed, depending on the ideological or political context, the identity crisis revolves around these factors. Assuming that all States are multicultural, the Special Rapporteur believes that there are three main ways of protecting and promoting multiculturalism. First, the State must recognize the specific features of each of its component groups while advocating national unity. Second, the State should promote interaction among the different communities and ethnic groups in order to ensure that none are isolated. Third, the fight against racism should be linked to the promotion of multiculturalism, since combating racism should not lead to the isolation of any community; rather, it should protect all communities by fostering interaction among them. Accordingly, he explained that the denial of European Union membership to Turkey and the refusal to refer to Europe's Christian heritage in the European Constitution in fact masked the rejection of the notion that Europe is already multicultural. He noted, in that regard, that it was urgent that the political and economic construction of Europe should be accompanied by a study and a major programme on the rebuilding of the plural identity of the new Europe.

21. The Special Rapporteur has also worked with the Anti-Discrimination Unit in the Office of the High Commissioner for Human Rights, in particular by participating in a meeting entitled "Discrimination and hate crimes: combating the violence of intolerance", organized by the Anti-Discrimination Unit on the occasion of the International Day for the Elimination of Racial Discrimination on 21 March 2005. The Special Rapporteur welcomed the invitation to participate in this important meeting and the request by Mrs. Louise Arbour, High Commissioner for Human Rights, that he should moderate this meeting following her departure.

22. From 30 March to 3 April 2005, at the invitation of the Puerto Rican Human Rights Committee, the Special Rapporteur participated in a seminar in San Juan on the subject of racism and gender. During his stay, he was able to note the persistence of the legacy of racism and discrimination that has marked this country's history at the political, economic and social levels. The importance of the Committee's work, particularly in support of victims of discrimination, is such that it should not only be granted additional material, budgetary and human resources, but also — and above all — be allowed to work more autonomously and participate more fully in activities relating to the promotion and defence of human rights.

[1] See CERD/C/SR1694. The Special Rapporteur stressed that the ascendancy of multiculturalism in all countries results from the historical need for peoples to feed themselves, conquer others, make war and trade, failing which there would have been neither interaction nor history.

23. From 21 to 25 April, at the invitation of the Lutheran World Foundation, the Special Rapporteur participated in the second "Interfaith Peace Summit in Africa" in Johannesburg, South Africa, a summit which brought together a total of 248 representatives of the world's main religious traditions. The Lutheran World Foundation's interreligious work in the field, particularly in conflict zones in Africa, is a particularly original and effective initiative to promote the role of religion as a factor for peace across the African continent. In his presentation entitled "Racism, Religion and Dialogue", the Special Rapporteur drew the attention of participants to two issues covered by his mandate: the exacerbating effect of the conflation of factors of race or ethnicity, religion and culture in most conflicts in Africa and the political manipulation of these factors in national identity constructs. In particular, he stressed the need to promote cultural and religious pluralism in order to build peace on the continent.

24. From 25 to 27 May, the Special Rapporteur participated in the World Conference on Interreligious Dialogue, held in Santiago de Compostela, Spain. On 6 June 2005, the Special Rapporteur visited Budapest, where he participated in the Annual General Assembly of the European Foundation Centre, which discussed the integration of Muslims in European communities. During these two meetings, he shared with participants the observations and recommendations contained in his report on the defamation of religions to the Commission on Human Rights.

25. The Special Rapporteur also took part in the deliberations of the Conference on Anti-Semitism and Other Forms of Intolerance held in Cordoba, Spain on 8 and 9 June 2005 at the initiative of OSCE and the Spanish Government. This meeting reflects the growing movement to combat anti-Semitism and all forms of racism and discrimination. The Special Rapporteur's presentation focused on three key elements in the fight against racism and racial discrimination: the central role of identity constructs in the resurgence of all forms of discrimination and racism, owing in particular to the rejection of the profound reality of multiculturalism; the need to strengthen the legal and political strategy against racism with an intellectual, cultural and ethical strategy that targets the underlying causes of racism; and the gradual infiltration of the racist and xenophobic platforms of political and intellectual organizations of the far right into the political agendas of democratic parties under the guise of fighting terrorism, combating illegal immigration, defending the national identity or promoting "national preference".

26. The Special Rapporteur was unable to participate in the twelfth meeting of special rapporteurs, representatives, independent experts and chairpersons of working groups of the Commission on Human Rights, which took place from 20 to 24 June 2005 in Geneva, as at that time, at the request of the High Commissioner for Human Rights and in his capacity as United Nations special envoy, he was leading a fact-finding mission to Togo.

27. The day after her appointment as independent expert on minorities, the Special Rapporteur contacted Gay McDougal to congratulate her on her highly deserved appointment and to propose exploring ways and means of working together, as required by the complementarity of their mandates.

C. Field missions

28. The Special Rapporteur visited Japan from 3 to 12 July 2005. The mission will be the subject of a comprehensive report to the Commission on Human Rights at its sixty-second session in March 2006. The Special Rapporteur's visit took place in excellent conditions owing to the openness and full cooperation of the Japanese authorities, NGOs and the communities concerned.

29. During his mission, the Special Rapporteur visited Osaka, Kyoto, Tokyo, the island of Hokkaido (Sapporo, Niburani and Hakuro) and Chubu in Aichi prefecture, before ending his visit in Tokyo. He met the Vice-Minister for Foreign Affairs, representatives of various ministries, representatives of the judiciary, and local government representatives from Osaka, Kyoto, Tokyo and Sapporo. He also met representatives of civil society and the communities concerned, and visited communities in the areas in which they live.

30. Following his visit, the Special Rapporteur shared his initial observations with the Japanese Government. Racism, discrimination and xenophobia are a reality in Japanese society. This discrimination affects, in different ways, three communities or groups: national minorities (Ainus, Burakumin and the people of Okinawa), the Korean and Chinese communities, and immigrants from Asia, the Middle East, Africa and Europe. The sense that there is a lack of awareness about the deep historical and cultural roots of this discrimination is illustrated simultaneously by the recurring controversy surrounding the way in which certain episodes of Japan's history are written, particularly vis-à-vis its historical relations with neighbours such as the Korean peninsula and China, by the recurrence of the xenophobic and racist discourse of certain political figures, for example the Governor of Tokyo, and by the lack of comprehensive national legislation against racism, discrimination and xenophobia. In this regard, Japan faces two major challenges: it must bring its internal social, human and cultural structures into line with its global dimension at the political and economic levels and, as a result, build a multicultural society. By inviting the Special Rapporteur to visit the country and facilitating his visit, movements and contacts, the Japanese Government has demonstrated its willingness to meet the serious challenges of racism, discrimination and xenophobia.

31. The Special Rapporteur will submit a detailed report on this mission to the Commission on Human Rights at its sixty-second session. The report will contain specific recommendations based on additional information that he will be receiving from the communities concerned and civil society and on the Japanese Government's comments on his draft report.

III. Manifestations of racism, racial discrimination, xenophobia and related intolerance

A. Treatment of foreign nationals, asylum-seekers, refugees and immigrants in waiting areas

32. The Special Rapporteur's attention has been drawn to the racist and xenophobic treatment, in many States, of asylum-seekers, refugees and immigrants in waiting areas, particularly airports, ports and stations. In his view, this is an indication that racism, discrimination and xenophobia are on the increase. Indeed,

the widespread resurgence of racism is characterized not only by the strengthening of traditional forms of racism together with the appearance of new forms of racism against whole communities and religions, but above all by the appearance of a number of central figures of modern racism, namely members of national, ethnic or religious minorities, non-citizens, immigrants, refugees and asylum-seekers. As a result of the overemphasis on the fight against terrorism, the treatment of such groups is characterized by suspicion, mistrust, fear that they may be dangerous, and cultural and religious hostility. Such sentiments result in the widespread implementation of national policies that have a tendency to restrict the economic and social rights (housing, education, health) of these communities and thus illustrate that the political primacy of security over the law brings about a decline in human rights. Such policies are first applied at the points of entry into a country (airports, ports, borders), through the widespread use of discriminatory measures, such as targeting people because of their ethnic, cultural or religious appearance, thorough and humiliating searches, refoulement, separate counters for nationals and foreign nationals, and excessively long waiting lines at counters for foreign nationals. In this regard, human rights organizations report, in particular, that waiting areas for asylum-seekers and persons who have been turned back have become so-called no rights zones which are characterized inter alia by a lack of access to redress and defence, physical and verbal violence of a racist nature by law enforcement officers, cramped conditions and lack of privacy, a lack of minimum conditions of hygiene, a lack of measures to protect women and children. Generally speaking, these are restricted areas which human rights organizations cannot access. It is clear from the increase in violent incidents caused by legally vague conditions of expulsion, in particular group expulsions by charter and commercial flights, that particular attention needs to be given to this kind of resurgence of racism.

33. Such trends have been reported in France, for example, by the Commission nationale de déontologie de la sécurité (National Commission for a Security Code of Conduct) which, in its annual report 2003,[2] noted the existence of arrangements for enforced embarkation based on specific restraining techniques with a de facto humiliating aspect, such as placing restraints on people's legs, transporting foreign nationals by plane in a horizontal position, the use of unprofessional methods of intervention and the systematic use of force. The Commission nationale noted that in some cases these methods affected the physical and moral integrity of persons who had been turned back, two of whom died as a result of excessive use of restraints. The Commission also stressed that the systematic use of such methods, which are applied only to foreign nationals, resemble a form of institutional discrimination.

34. The Commission nationale de déontologie de la sécurité noted that when it comes to escorting to the border or turning back persons who have not been admitted to French national territory — around 20,000 people in total at Roissy Charles de Gaulle airport in 2002 — police officers are not given any technical training on the specific nature or duration of such operations. The Commission also recommended teaching and applying, as strictly as possible, technical and professional methods of intervention which can then be used by border police

[2] *Rapport 2003 de la Commission nationale de déontologie de la sécurité remis au Président de la République et au Parlement*, Paris, La Documentation française, 2004.

officers, in order to ensure respect for the dignity and physical and mental integrity of persons who are escorted to the border or turned back. The Commission also suggested improving dialogue with all the persons, authorities and associations concerned and ensuring respect for national and international standards on security-related searches and handcuffing.[3] In the Special Rapporteur's view, the fact that such a commission was established and such a report published indicates that Member States are now aware of the seriousness of the problem.

35. The treatment in waiting areas and the conditions of expulsion of refugees and asylum-seekers is also a matter of concern for Amnesty International, which expressed its concerns on the occasion of World Refugee Day on 20 June 2005. To mark this date, the non-governmental organization published three reports on detention and practices relating to expulsion in the United Kingdom, Italy and Spain, even though it did stress that such practices are a reality in most parts of the world.[4]

36. In general terms, Amnesty International noted that conditions of detention often do not respect standards relating to fundamental human rights. People are detained in unsatisfactory conditions of hygiene for prolonged periods of time and are unable to contest the legality or necessity of their detention or to file a complaint for mistreatment, as in most cases the possibility of obtaining legal assistance is limited, if not non-existent. Allegations of excessive use of force by law enforcement officers or managerial staff are also a cause for concern.

B. Racism and sports

37. The Special Rapporteur discussed the issue of racism in sport in his previous report to the General Assembly (A/59/329), in response to General Assembly resolution 58/160 which requested him "to pay special attention to the increasing frequency of incidents of racism at various sporting events". At its fifty-ninth session, the General Assembly, in its resolution 59/177, while noting with appreciation the efforts made by some sporting governing bodies to combat racism, expressed its concern at the increasing incidence of racism in various sporting events.

38. In his general report to the sixty-first session of the Commission on Human Rights (E/CN.4/2005/18), the Special Rapporteur drew attention to the increase in racist incidents in sport, in particular in football. Among the reasons for this increase, he has noted that the noble ideals of competition and mutual respect are being eroded by the exacerbation of the nationalistic dimension of competitions and the overemphasis on money.

39. He has also noted that the increase in violence and openly racist incidents is illustrated not only by the actions of some supporters, but also by the comments and behaviour of coaches of famous teams who trivialize or legitimize racist or

[3] Ibid., p. 15. See also submissions 2003-17 and 2003-19 in the same volume.

[4] See *The human cost of "Fortress Europe". Detention and expulsion of asylum-seekers and migrants in the EU. Amnesty International Open Letter to the incoming UK Presidency on the occasion of World Refugee Day; Italy: Temporary stay — Permanent rights: The treatment of foreign nationals detained in 'temporary stay and assistance centres' (CPTAs)*; and *Spain: The Southern Border. The State turns its back on the human rights of refugees and immigrants*.

xenophobic incidents. The Special Rapporteur considers that, in view of the gravity of some racist acts and the coverage that they were given in the media, their condemnation and the measures taken against those responsible do not reflect the seriousness of the situation.

40. In view of this increase in racist incidents, the Special Rapporteur believes it is necessary and urgent for politicians and national and international sporting bodies to take a firm stand, not only demonstrating greater commitment to, and vigilance in, the fight against racism and discrimination in sport, but also becoming more involved in awareness-raising campaigns and activities at the national and international levels in order to promote an image of interculturalism and multiracial integration at sporting events.

41. In the context of a greater mobilization of international sporting bodies, the Special Rapporteur has intensified his contacts with sporting bodies in order to promote cooperation and complementarity in efforts to combat racism in sport. He therefore had an initial meeting with Jacques Rogge, President of the International Olympic Committee (IOC), on 20 October 2004. This meeting paved the way for cooperation with the Olympic organization in the area of information exchange. On 6 December 2004, the Special Rapporteur also had a meeting in Zurich with Joseph S. Blatter, President of the International Federation of Association Football (FIFA), who expressed his deep concern about the recent racist incidents in football and outlined the actions that FIFA is taking to combat racism.

42. The Special Rapporteur has noted that there have been some positive initiatives by sports federations or other organizations to combat racism in sport, such as the measures taken by FIFA or the Union of European Football Associations (UEFA) that are mentioned in his previous report to the General Assembly (A/59/329, paras. 33 to 35).

43. Among more recent initiatives, the Special Rapporteur draws attention to the FIFA Executive Committee's decision, at its meeting of 7 and 8 March 2005, to create a multiethnic "team" of FIFA Ambassadors against Racism, which brings together leading players and coaches both past and present.[5] This team of ambassadors, the captain of which is the French player Thierry Henry, will be responsible for actively promoting the fight against racism by embodying the values of football, primarily through interviews, events and summits.

44. The Special Rapporteur also wishes to congratulate FIFA for the activities it has organized each year, since 2002, as part of its worldwide Anti-Discrimination Day. In 2005, FIFA organized the fourth Anti-Discrimination Day to coincide with the semifinals of the FIFA Confederations Cup (Germany 2005), held on 25 and 26 June, and the quarter finals of the FIFA World Youth Championship (Netherlands 2005), held on 24 and 25 June. The Day was marked by various activities designed to deliver a clear message against racism, not only in football but also in society as a whole. At these matches, before kick-off, the two team captains read a declaration condemning and rejecting all forms of discrimination in football and society as a whole by firmly saying "no to racism". As part of the official pre-match protocol, teams and match officials posed jointly behind a banner displaying the unequivocal message of "Say No to Racism". For the FIFA World Cup qualifiers in June, FIFA

[5] See FIFA press release of 21 June 2005 entitled "Top national teams show solidarity in fight against discrimination" on FIFA's official website: www.fifa.com.

also encouraged its member associations to help circulate this message against racism throughout the world by inviting them to participate in these actions on the ground.

45. UEFA has also stepped up its campaign against racism, which it conducts in close cooperation with Football Against Racism in Europe (FARE). Among the activities carried out, the Special Rapporteur wishes to highlight in particular that an anti-racism guide, published in July 2003, has been distributed to all the national federations, leagues and clubs in Europe and all UEFA referees, match delegates and stadium managers.

46. The Special Rapporteur also welcomes the ninth edition of the Anti-Racist World Cup, which was organized by UEFA and FARE in Montecchio, Italy, in July 2005 and was the first to receive FIFA backing. This tournament is a multicultural event which brings together groups of supporters, immigrants, local communities and anti-racist associations from more than 25 countries for five days of football, music and anti-racist activities.

47. The anti-racist campaign conducted by FIFA and FARE has continued to grow in recent years, as demonstrated by the fact that several national federations have submitted anti-racist programmes, namely the federations of Armenia, Belgium, the Czech Republic, England, Finland, Georgia, Germany, Iceland, Israel, Latvia, Lithuania, the Netherlands, Northern Ireland, Norway, Scotland, Slovakia, Spain, Sweden, Switzerland, the Republic of Moldova, the Russian Federation, Ukraine and Wales. Three programmes in Bosnia and Herzegovina, Hungary and the former Yugoslav Republic of Macedonia are currently being studied.

48. Despite the efforts already made and the success of these initiatives, the Special Rapporteur continues to invite Member States to demonstrate greater commitment to fighting racism in sport, by conducting educational and awareness-raising activities and by very firmly condemning the perpetrators of racist incidents, in cooperation with national and international sporting bodies.

49. The Special Rapporteur continues to be of the view that national and international sporting bodies and the United Nations need to work together more closely. In his report to the sixty-first session of the Commission on Human Rights, he therefore proposed, with regard to football, that, at the initiative of FIFA and the host country, Germany, a highly significant and symbolic event could be organized in conjunction with the United Nations, in particular the Office of the High Commissioner for Human Rights, in order to send out a strong message against racism on the occasion of the 2006 World Cup in Germany. To this end, on 1 March 2005, the Special Rapporteur had a meeting in Vienna with the European Monitoring Centre for Racism and Xenophobia (EUMC) and with the artist André Heller, who is responsible for organizing special events in connection with the upcoming FIFA World Cup.

50. The Special Rapporteur also reiterates the recommendation contained in his report to the Commission on Human Rights (E/CN.4/2005/18, para. 48 (g)) in which he invites international sports organizations to take tough measures against the perpetrators of racist incidents. The Special Rapporteur believes that international sports bodies should ask national federations to submit annual reports on racist incidents and the action taken in response to them. The Special Rapporteur again emphasizes the role of civil society organizations, in particular NGOs, in the fight

against racism in sport and invites them to become more involved through projects designed to improve knowledge and appreciation of others.

IV. Cooperation with regional organizations

51. The Special Rapporteur welcomes the increased cooperation with EUMC, the European Union agency responsible for combating racism and xenophobia based in Vienna. As part of this cooperation, which was initiated during the Special Rapporteur's visit to Vienna on 7 and 8 October 2004, a joint declaration was published on 21 March 2005 on the occasion of the International Day for the Elimination of Racial Discrimination. A joint meeting was also organized in Vienna on 1 March 2005 with a view to organizing an event against racism in sport during the 2006 FIFA World Cup. Furthermore, on 16 and 17 December 2004, an assistant of the Special Rapporteur participated in an EUMC round table which was given the task of identifying possible new directions for the agency's work and its interaction with its partners. The Special Rapporteur also published an article in the agency's quarterly review, *Equal Voices*, in which he discusses new challenges and obstacles in the fight against racism, racial discrimination and xenophobia, new ways of responding to them, and the role of identity constructs in the resurgence of racism and xenophobia.[6] The Special Rapporteur welcomes this fruitful cooperation with EUMC and intends to increase it further in the future.

52. As regards OSCE, the Special Rapporteur emphasizes the high quality of both the cooperation that was initiated several years ago and the way in which it has developed. As mentioned above in the description of his activities, this cooperation was strengthened by the Special Rapporteur's participation in the conference held in Cordoba.

V. Conclusions and recommendations

53. **The Special Rapporteur will submit to the Commission on Human Rights at its sixty-second session detailed recommendations on the issues covered by his mandate, particularly in the light of his visits. He therefore wishes to make the following recommendations to the General Assembly.**

54. **The General Assembly is invited to draw the attention of Member States to the alarming signs of a retreat in the struggle against racism, racial discrimination and xenophobia as a result of the growing number of counter-terrorism policies and programmes that generate new forms of discrimination against groups and entire communities, religions and spiritual traditions. In this context, the seriousness of the resurgence of Islamophobia must be given particular attention. The General Assembly may wish to also invite Member States to grant greater vigilance to all forms of defamation of religions, in particular anti-Semitism and Christianophobia.**

[6] New Challenges and Obstacles in the Fight against Racism", *Equal Voices*, Issue No. 15, December 2004.

55. **The General Assembly is invited to give particular attention to the resurgence of racism, discrimination and xenophobia against national, ethnic, cultural and religious minorities, immigrant populations, asylum-seekers and refugees, largely through the erosion of their economic and social rights (housing, education, health) and the gradual loss of protection systems under the relevant international instruments.**

56. **The General Assembly is also invited to give particular attention to the discriminatory treatment of groups in waiting and holding areas at airports, ports and borders, and to recommend that Member States consider taking the necessary measures to prevent such areas from becoming so-called no rights zones. In this context, the Special Rapporteur:**

- **Recommends that training courses for border police include training on national and international standards relating to the prohibition of racial discrimination and xenophobia.**
- **Encourages Governments to refrain from adopting measures motivated by "security threats" which could result in discrimination, in particular discrimination based on race, colour, language, religion, nationality, or national or ethnic origin.**
- **Also encourages Governments to take urgent measures to ensure that any person who is in a waiting area and could be expelled is given basic guarantees. Such guarantees must include respect for fundamental human rights, including the right to obtain legal assistance.**
- **Reminds Governments of their obligation to ensure that no person is sent back to a country where they could be subject to fundamental human rights violations.**
- **Draws attention to the specific situation of minors in waiting areas. The Special Rapporteur considers that they must be given specific attention in order to remedy the problems that have been noted, whether they be the application of legal procedures, administrative practices or the poor functioning of procedures relating to caring for unaccompanied minors.**

57. **The Special Rapporteur invites Member States to demonstrate greater commitment to fighting racism in sport, by conducting educational and awareness-raising activities and by very firmly condemning the perpetrators of racist incidents, in cooperation with national and international sports organizations. National and international sports bodies and the United Nations need to work together more closely. He therefore recommends that, on the occasion of the 2006 World Cup in Germany and at the initiative of FIFA and the host country, a highly significant and symbolic event could be organized in conjunction with the United Nations, in particular the Office of the High Commissioner for Human Rights, in order to send out a strong message against racism.**

58. **The Special Rapporteur also reiterates the recommendation contained in his report to the Commission that international sports bodies should focus on the national dimension of the fight against racism, by asking national federations to submit annual reports on racist incidents and the action taken in response to them.**

59. **Lastly, the Special Rapporteur believes that, in order to effectively combat racism and general violence in sport in the long run, national and international sporting bodies must place greater emphasis on the fundamental values of sport and take measures against values based on nationalism and the financial dimension of competitive sports.**